

RECORDATION NO. 12243-B  
FILED 1483

FEB 14 1990 - 12 55 PM  
INTERSTATE COMMERCE COMMISSION

# First Security Bank

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INTERSTATE COMMERCE COMMISSION

February 16, 1990

Interstate Commerce Commission  
12th and Constitution Avenue, N.W.  
Washington, D.C. 20423  
Attention: Mildred Lee - Room 2303

RECORDATION NO. 12242-B  
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INTERSTATE COMMERCE COMMISSION

Dear Ms. Lee:

As per your telephone conversation yesterday with Ellen Toscano of this office, please find enclosed three executed and three certified copies of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code. These are in addition to the two copies I sent to you with a cover letter dated February 6, 1990.

This document, which is a secondary document, is an Assignment and Assumption Agreement ("Assignment") dated November 7, 1989. The primary documents to which this Assignment is related were recorded under Recordation Numbers 12240, 12241, 12242 and 12243 on September 30, 1980. I hereby request cross-indexing as the document is an assignment of an Equipment Lease and related documents previously recorded.

A description of the equipment is as follows:

Seven (7) General Motors EMD Model GP39-2, 2,300 horsepower, four axle diesel-electric locomotives in accordance with General Motors Locomotive Specification 8075, as modified, Road Numbers 705 through 711, both inclusive.

The parties to the Assignment are as follows:

(1) as Assignor:

Servicing Station Holdings, Inc.  
(formerly known as Kennecott Corporation),  
a Delaware corporation  
10 East South Temple  
P. O. Box 11248  
Salt Lake City, Utah 84147

(2) as Assignee:

Kennecott Utah Copper Corporation,  
a Delaware corporation  
10 East South Temple  
P.O. Box 11248  
Salt Lake City, Utah 84147

(3) as Lessor:

First Security Leasing Company  
381 East Broadway  
2nd Floor  
Salt Lake City, Utah 84111

(4) as Lender:

First Security Bank of Idaho, N.A.  
119 North 9th Street  
Boise, Idaho 83730

A fee of \$45.00 is enclosed. Please return the copy with the new recordation information to the Lessor, First Security Leasing Company, 381 East Broadway, 2nd Floor, Salt Lake City, Utah 84111, Attention: Ellen J. Toscano.

A short summary of the document to appear in the index follows:

Assignment of all right, title and interest in and to the Equipment Lease and all documents related thereto with Recordation Numbers 12240, 12241, 12242 and 12243 covering seven (7) General Motors EMD Model GP39-2, 2,300 horsepower, four axle diesel-electric locomotives in accordance with General Motors Locomotive Specification 8075, as modified, Road Numbers 705 through 711, both inclusive.

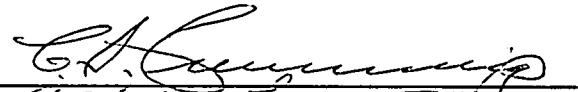
Thank you for your assistance with and attention to this matter. If you should have any questions, please contact Ellen Toscano at First Security Leasing Company at (801) 350-3068.

Very truly yours,

FIRST SECURITY BANK OF IDAHO, N.A.

By:

Its:

  
Authorized Representative

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RECORDATION NO. 12242-B

FEB 14 1990 - 12 55 PM

INTERSTATE COMMERCE COMMISSION

## ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (hereinafter "Agreement") is made and entered into as of the 7th day of November, 1989 among Service Station Holdings, Inc. (formerly known as Kennecott Corporation), a Delaware corporation, (hereinafter "ASSIGNOR"), Kennecott Utah Copper Corporation (formerly known as Gazelle Corporation), a Delaware corporation, (hereinafter "ASSIGNEE"), First Security Leasing Company, a Utah corporation, (hereinafter "LESSOR") and First Security Bank of Idaho, a national association, (hereinafter "LENDER").

### Section 1. Recitals.

A. On September 15, 1980, ASSIGNOR, as lessee, entered into an Equipment Lease ("Equipment Lease") with LESSOR, whereby LESSOR agreed to lease to ASSIGNOR and ASSIGNOR agreed to pay rental for certain equipment described therein (hereinafter the "Equipment").

B. In connection with the Equipment Lease, LESSOR, LENDER and ASSIGNOR entered into a Participation Agreement dated November 15, 1980 (which document, together with the Equipment Lease and all other documents related to the lease transaction described herein, shall hereinafter be collectively referred to as the "Lease Documents").

C. ASSIGNOR now desires to assign and delegate and ASSIGNEE desires to accept and assume all of the rights and obligations of the lessee under the Lease Documents and with respect to the Equipment.

### Section 2. Assignment and Assumption.

ASSIGNOR hereby assigns and delegates to ASSIGNEE all of ASSIGNOR'S rights and obligations as lessee under the Lease Documents and with respect to the Equipment.

### Section 3. Performance.

ASSIGNEE hereby accepts such assignment and delegation and agrees to abide by all the covenants and conditions and to perform all of the duties and obligations of the ASSIGNOR under the Lease Documents, including, but not limited to, the payment of all rental, sales, property or other taxes or other sums required as and when due. ASSIGNEE has read and understands the Lease Documents and agrees to be bound by all the terms and provisions of the Lease Documents as if originally executed and delivered by ASSIGNEE, and agrees that the Lease Documents shall be enforceable against ASSIGNEE as if originally executed and delivered by ASSIGNEE.

Section 4. Liability of ASSIGNOR.

ASSIGNOR is not released to any extent from its liability, obligations, covenants, representations and warranties to LESSOR and LENDER under the Lease Documents for the prompt and complete performance of all of the obligations and duties of the lessee under the Lease Documents. The liability of ASSIGNOR and ASSIGNEE under the Lease Documents shall be joint and several and, in the event of a default under the Lease Documents, LESSOR and LENDER may at their option proceed against ASSIGNOR or ASSIGNEE in whatever order they deem appropriate.

Section 5. Consent of LESSOR and LENDER.

In order to induce LESSOR and LENDER to execute this Agreement, LESSOR and LENDER have been provided with the following documents prior to such execution:

(a) A letter, substantially in the form of Exhibit A hereto, signed by ASSIGNOR and addressed to the Interstate Commerce Commission (hereinafter "ICC") instructing the ICC to record this Agreement.

(b) Copies of general corporate authorization of ASSIGNOR and ASSIGNEE which relate to, among other things, the assignment and assumption of the Lease Documents and any other instruments contemplated herein and with respect to the execution, delivery and performance thereof by ASSIGNOR and ASSIGNEE.

Section 6. Indemnification.

ASSIGNOR hereby agrees to indemnify LESSOR (on a net after-tax basis) for any increase in state or local taxes based on LESSOR'S net or gross income arising from the assignment of the Equipment, as provided in Section 14 of the Equipment Lease.

Section 7. Miscellaneous.

A. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Utah.

B. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective successors and assigns.

C. This Agreement may be executed in any number of counterparts, each executed counterpart constituting an original but all together only one Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on behalf of them as of the date first written above.

ASSIGNOR: SERVICE STATION HOLDINGS, INC.

By: *Greg Dunn*

Its: Vice President

ASSIGNEE: KENNECOTT UTAH COPPER CORPORATION

Assignee's address 10 EAST SOUTH TEMPLE  
SALT LAKE CITY, UT 84133

By: *Herbert* *amv*

Its: SENIOR VICE PRESIDENT

LESSOR: FIRST SECURITY LEASING COMPANY

By: *G. H. Cummings*

Its: *President*

LENDER: FIRST SECURITY BANK OF IDAHO, N.A.

By: *M. J. [Signature]*

Its: *Vice President*

CERTIFICATION

The undersigned notary public hereby certifies that the attached copy of an Assignment and Assumption Agreement dated as of November 7, 1989 among Service Station Holdings, Inc. (formerly known as Kennecott Corporation) as Assignor, Kennecott Utah Copper Corporation as Assignee, First Security Leasing Company as Lessor, and First Security Bank of Idaho, N. A. as Lender, is a complete copy of such Assignment and Assumption Agreement.

STATE OF UTAH

COUNTY OF SALT LAKE

